

Appl. No. 10/055,377
Amendment and/or Response
Reply to Office action of 9 January 2004

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REMARKS / DISCUSSION OF ISSUES

Claims 1-13 are pending in the application, of which claims 1-10 are allowed, claims 11-13 are withdrawn, and claims 14-16 are new.

Applicant(s) respectfully request(s) the Examiner to acknowledge the claim for priority and receipt of certified copies of all the priority document(s), i.e., application GB 0102167.4 filed 27 January 2001.

The Office action requires a proposed drawing correction or corrected drawings designating figures 1-3 as Prior Art. Replacement Sheets complying with this requirement are included herewith. The Examiner is respectfully requested to state whether the drawings are now acceptable.

The Office action makes the earlier restriction requirement final. Accordingly, device claims 11-13 are marked "Withdrawn". However, applicants respectfully continue to traverse the restriction requirement. The restriction requirement is improper, as explained below.

The Office action states that the requirements of MPEP 806.05(f) have been met, but this is not so. The first requirement of MPEP 806.05(f) for restriction is that examiner demonstrate that the product as claimed can be made by another materially different process. This has not been done. Indeed, as applicants point out, since the device claims themselves require use of the claimed method, the product as claimed cannot be made by another materially different process. Thereafter, to maintain the restriction requirement, **"the burden shifts to the examiner to document a viable alternative process or product, or withdraw the requirement."** MPEP 806.05(f). However, the Examiner has not documented any such viable alternative process or product. Accordingly, the restriction must be withdrawn.

Further, the Office action has not successfully answered the applicants reversal of the restriction requirement under MPEP 806.05(c). The Office action states that "the restriction would still be proper because the subcombination is not essential to the combination", incorrectly citing MPEP 806.05(B)(I), which does not appear to exist on the latest version of the MPEP on the USPTO web site. It is

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believed the Examiner means to cite MPEP 806.05(c)I. However, the statement in the Office action that "the specifics of the crystal display defined in claim 11" are not required in [the combination]" is incorrect, because claims 11-16 are dependent claims that depend from claims 8, 9, or 10, and as such do require, and in fact explicitly comprise, the details of the claims from which they depend.

Additionally, claims 11-13 are amended to depend from new claims 14-16, respectively, which are themselves product-by-process claims that exactly recite claims 8-10 from which they respectively depend, and therefore require all respective details thereof. Accordingly, the restriction should be withdrawn and the withdrawn claims rejoined.

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner allow all the pending claims and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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